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BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

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In the Matter of

Advanced Television Systems  
and Their Impact Upon the  
Existing Television Broadcast  
Service

MM Docket No. 87-268

To: The Commission

**OPPOSITION TO PETITION FOR PARTIAL RECONSIDERATION**

Duhamel Broadcasting Enterprises ("DBE"), by its attorneys, hereby submits its Opposition to the Petition for Partial Reconsideration, dated May 20, 1997, which was filed by Rapid Broadcasting Company ("RBC") in response to the Commission's Sixth Report and Order in the above-referenced proceeding ("Sixth R&O"). DBE is the licensee of KOTA-TV, Channel 3, Rapid City, South Dakota, and KHSD-TV, Channel 11, Lead, South Dakota. RBC is the licensee of low power TV ("LPTV") station KNBN-LP, Rapid City, South Dakota, and the permittee of LPTV stations K27ED and K31DK, both to be located in Rapid City, South Dakota. As shown below, RBC's proposal to alter the digital television ("DTV") allotments of six full power television stations frustrates the Commission's goal of early spectrum recovery during the DTV transition and unjustifiably burdens these full power stations with unnecessary financial and technical hardships.

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In its Petition for Partial Reconsideration ("RBC Petition"), RBC asks the Commission to make the following alternative DTV allotments:

<u>Station</u>	<u>NTSC Channel</u>	<u>DTV Allotment</u>	<u>RBC's DTV Proposal</u>
KPSD	13	24	44
KIVV	5	26	59
KHSD	11	27	62
KOTA	3	22	49
KBHE	9	23	50
KCLO	15	16	53

RBC Petition at 2. RBC argues that moving these six full power television stations to new DTV channels is necessary to prevent the displacement of RBC's LPTV stations in Rapid City, South Dakota.

At the outset, it should be noted that in creating its DTV Table of Allotments, the Commission found that displacing LPTV stations was unavoidable. Sixth R&O at 65. The Commission concluded that, to accomplish the transition to DTV with the limited spectrum available, LPTV stations would have to maintain their secondary status. To limit the harm to the LPTV service, however, the Commission decided to allow LPTV stations to modify their facilities, including their channel assignment, to coexist with the new DTV allotments. See Sixth R&O at 65-70. By asking the Commission to move six full power television stations to new DTV channels in order to protect the current channel of one licensed LPTV station, RBC has ignored the very substance of the Commission's decision and, instead, given its LPTV stations the highest priority. Predictably, RBC's request to reorder the Commission's allotment priorities results in a host of problems that the Commission had sought to avoid when it decided that LPTV stations could only be given secondary status.

For example, RBC's proposal conflicts with the Commission's attempt to "facilitate and minimize the cost to broadcasters of spectrum recovery" embodied by its concept of core DTV spectrum. Sixth R&O at 40. In particular, the Commission has been concerned with channel allotments outside of the core DTV spectrum which will force broadcasters to endure "second channel moves, with concomitant costs." Id. RBC's proposal fails to accommodate the Commission's concerns. RBC has requested revised DTV allotments under which only one out of six full power stations would be given a DTV channel that is definitely within the final DTV core spectrum, which will consist of either channels 2-46 or 7-51. Most likely, RBC's proposal, if implemented, would force five full power television stations to undergo second channel moves. Even under the best case scenario, in which the Commission decides the DTV core spectrum will consist of DTV channels 7-51, RBC's proposal would still force three full power television stations to suffer second channel moves. Indefensibly, RBC has decided that protecting its single licensed LPTV station from displacement to a different channel outweighs the costs and associated hardships of forcing three or five full power television stations to move twice.<sup>1/</sup>

Furthermore, RBC's proposal ignores the Commission's finding that the public interest will be served by the early recovery of channels 60 to 69. Much of this recovered spectrum will support important public safety communications needs. See Sixth R&O at 37-40. To accomplish this goal, the DTV Table of Allotments minimized the use of channels 60-69. Yet RBC has requested that the Commission move DBE's KHSD-TV from DTV channel 27 to DTV

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<sup>1/</sup> RBC should encounter no difficulty in locating alternative channels for its LPTV stations if they are displaced during the transition to DTV. Based on the engineering software developed by the Association for Maximum Service Television, there are over forty alternative channels in Rapid City, South Dakota available for DTV use. Almost any of these could be used for RBC's LPTV operations.

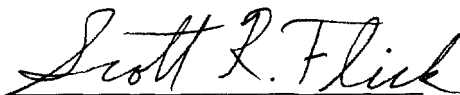
channel 62. Not only does this proposal force DBE to endure a second channel move and potential interference from non-broadcast technologies that will begin operating on the adjacent spectrum, but it prevents the Commission from reaching its goal of rapidly recovering spectrum for such alternate uses.

At the very core of the DTV Table of Allotments is the Commission's decision that LPTV stations may have to change channels in order to survive the DTV transition. RBC has shown nothing that distinguishes its situation from that rule of general applicability. Ignoring the necessity of moving LPTV stations to usher in the DTV era, RBC has filed a proposal that, if implemented, will prevent the Commission from accomplishing its desire to rapidly recover spectrum and will place financial and technical hardships on six full power television stations that far outweigh those that threaten RBC's single licensed LPTV station.

Accordingly, for the reasons set forth above, DBE respectfully requests that the Commission deny RBC's Petition for Partial Reconsideration.

Respectfully submitted,

**Duhamel Broadcasting Enterprises**

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**CERTIFICATE OF SERVICE**

I, Renee Williams, a secretary in the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., do hereby certify that true copies of the foregoing "**OPPOSITION TO PETITION FOR PARTIAL RECONSIDERATION**" were sent this 18th day of July, 1997, by first class United States mail, postage prepaid, to the following:

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